IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1571 OF 2005
AND
WRIT PETITION NO.1551 OF 2005

LTCDR Manmeet Singh & Anr. ...Petitioners

Versus

Shridhar Ramgnath Phule & Anr. ...Respondents

Shri A.K.Chavan for the Petitioners.
Shri R.N.Sanghavi for the Respondent No.1.
Ms Mhaispurkar, A.G.P for the Respondent No.2.

CORAM : ABHAY S.OKA, J.
DATED : APRIL 19, 2007.

P.C.:

1. Submissions of the learned Advocates appearing for the parties were heard yesterday. In both the Writ Petitions which are filed invoking Article 227 of the Constitution of India, the challenge is to orders passed under section 140 of the Motor Vehicles Act, 1988. The Petitioners are the opponents in the claim Petitions. The case of the first Respondent is that on 29th March, 2003 the Claimant/Applicant (the first Respondent herein) was proceeding on his M-80 vehicle alongwith his wife Mangal towards Urli-Kanchan on Pune-Solapur National Highway. At that time first Respondent's friend one Shri Prakash Borase was also proceeding on his motorbike alongwith him. According to the case of the first Respondent, when he was proceeding at a

moderate speed one maruti esteem car bearing registration No.MH04/AC-8458 came from Pune side towards Solapur and gave a dash to M-80 moped of the Petitioner. It is alleged in the Application that the first Petitioner is the registered owner of the said motor-car. According to the first Respondent, he suffered serious injuries due to the accident. He had to undergo a brain surgery and has become handicapped. His wife died as a result of the injuries sustained in the accident. Therefore, two claim Petitions were filed. In the Claim Petition for claiming compensation on account of the injury sustained by the first Respondent, the compensation of Rs.25,000/- on account of No Fault Liability has been awarded and in the other Claim Petition compensation of Rs.50,000/- has been awarded.

2. The contention of the Petitioners is that the said motor-car was not at all involved in the accident. The case made out in the Petition is that the Petitioner No.1 is an officer of Indian Navy and the Petitioner No.2 is his wife. On the date of accident early in the morning the Petitioners started proceeding towards a holy place of Sikh community at Nanded. At about 10.00 a.m while Petitioners were passing through National Highway they heard some commotion on the right side

which attracted attention of the first Petitioner. The second Petitioner was driving the maruti esteem car. The first Petitioner requested the second Petitioner to park the maruti esteem car. The Petitioner noticed that one man and one woman were injured and were crying for help. The said man was Respondent No.1 herein and the woman was his deceased wife. The first Petitioner being an officer of Navy decided to help the victims. According to the Petitioners' case they accomodated the injured lady on the back seat of their car and took her to a clinic. The case of the Petitioners is that they helped both the victims of the accident. According to them the allegations made by the claimants in the claim Applications are utterly false and the car owned by the Petitioner No.1 was not at all involved in the accident.

3. The learned Member of the Tribunal after perusal of the documents produced by the original claimants held that the car of the first Petitioner was involved in the accident and therefore, he proceeded to pass the orders under section 140 in both the cases directing deposit of the amounts payable as per the section 140 of the said Act of 1988.

4. The learned counsel appearing for the Petitioners invited my attention to the F.I.R which

records that the accident occurred due to a dash given by a tata sumo vehicle. He submitted that the F.I.R itself shows that the maruti esteem car owned by the first Petitioner was not at all involved in the accident. He, therefore, submitted that there was no basis for passing orders under section 140 of the said Act of 1988 against the Petitioners. He further submitted that as the F.I.R itself shows that the maruti esteem car owned by the first Petitioner was not at all involved in the accident, the entire approach of the Tribunal is erroneous. The learned counsel for the original claimants supported the impugned order by pointing out various documents placed on record of the trial Court.

5. I have considered the submissions. In case of a claim under section 140 what is required to be proved is death or permanent disablement of any person resulting from an accident arising out of a use of a motor vehicle. It is not necessary to prove the aspect of negligence. While deciding Application under section 140 of the said Act of 1988, a summary enquiry is required to be held by the Member of a Tribunal. It will be necessary to refer to the documents which were placed before the Tribunal. The first document is a spot panchnama recorded on 10th April, 2003. The said

spot panchnama records the involvement of the maruti car of the first Petitioner. There is Form COMP.AA under the Rules framed under the said Act of 1988. The said Form is signed and issued by the Inspector of Police of Loni Kalbhor Police Station. The said Form also records the involvement of the maruti esteem car of the first Petitioner in the accident. Only in the F.I.R which is recorded two days after drawing of the panchanama, it is stated that a tata sumo vehicle dashed against the moped. The said allegation is found in statement of the first informant. However, in column number 7 of the F.I.R it is stated that the dash was given by the unknown driver of the Esteem Car No.MH04.AC 8458 i.e the car owned by the first Petitioner. The panchnama as well as Form COMP.AA clearly record involvement of the maruti esteem car owned by the Petitioner No.1. In the panchnama there is a reference to the presence of the said Prakash Borase who disclosed to the panch witnesses that the maruti esteem car of the first Petitioner was involved in the said accident. As pointed out earlier, the F.I.R was recorded two days after the said panchnama was recorded. Based on panchnama and Form COMP.AA, the Tribunal has come to the conclusion that the vehicle owned by the first Petitioner was involved in the accident.

6. The finding of the Tribunal is based on material placed on record. Only on the basis of the statement of a police officer recorded two days after the panchnama was drawn, it cannot be held that the vehicle of the first Petitioner was not involved in the accident. The learned Member of the Tribunal has placed reliance on documents which normally ought to be relied upon while deciding a claim Application under section 140 of the said Act of 1988. Hence, no case is made out for interference in Writ Petitions under Article 227 of the Constitution of India. Hence, the Petitions are rejected. On the prayer made by the learned Advocate for the Petitioners, ad-interim relief granted in these Petitions will continue to operate for a period of ten weeks from today.

JUDGE